

EXHIBIT 9

From: Bourne, Joseph C.
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Subject: RE: Pork Products
Date: Monday, April 5, 2021 2:41:23 PM

This Message originated outside your organization.

Brian,

Thank you for your email. Class Plaintiffs and Puerto Rico are in agreement with your email below as it relates to the production of structured data generally by Defendants.

This is without prejudice to any rights Class Plaintiffs and Puerto Rico have with respect to Defendant-specific issues that we have discussed (or may discuss in the future if there are issues when the data is produced), as well as our previously advised intention to seek a top-off of 2021 data after the data is available.

Best regards,

Joe

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Subject: RE: Pork Products

Joe:

I am responding on behalf of all Defendants. With a couple of clarifications, we think your email establishes the basis for agreement on production of structured data and eliminates any need for the parties (Class Plaintiffs, Puerto Rico, and Defendants) to seek relief from the Court under Monday's deadline.

As a preliminary matter, Defendants understand that the Class Plaintiffs and Puerto Rico are seeking structured transactional sales data on all pork products, other than the agreed-upon exclusions, because these Plaintiffs claim that the Defendants' alleged supply-reduction conspiracy resulted in price increases for all such products. It is with that understanding that we agree, in the interest of compromise, to produce transactional data for all pork products other than the agreed-upon exclusions.

First, we have concerns regarding Puerto Rico's new position that pig feet and pig hearts are "Pork" products. We do not view those products as meeting the definition of Pork products that Plaintiffs have pleaded in any of their many complaints, and we find it inconceivable that anyone is going to take the position that the alleged conduct resulted in supra-competitive prices paid for pig feet or pig hearts. However, in the interest of compromising and reaching agreement, Defendants will agree to produce structured data regarding any sales of pig feet and pig hearts to customers located in Puerto Rico. As with all other products, Defendants will of course reserve their rights to exclude these specific products from the case in the future.

Second, individual Defendants have clarified how they intend to interpret the categories you set forth below to each company's products, and we understand Class Plaintiffs and Puerto Rico to be in agreement with those explanations. Broadly speaking, Defendants understand that the parties are in agreement to exclude products that each Defendant has categorized as: 1) byproducts or offal (with the exception of hearts and feet sold in Puerto Rico); 2) multi-protein sausages; and 3) multi-ingredient products. Defendants believe that the individual responses they have sent to Plaintiffs and Puerto Rico provide sufficient transparency regarding their intentions.

Based on this agreement, all Defendants agree to January 1, 2005 as the start date for producing structured sales data. As we have explained, there will be variation across Defendants as to what data exist and are reasonably accessible. Individual Defendants have and will continue to provide information about the existence and availability of structured sales data in each Defendant's possession.

Brian

Brian E. Robison

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Subject: RE: Pork Products

[External Email]

Brian and all,

I'm writing to follow up on my March 30 email below.

Could you please confirm that Defendants will agree the time period for the production of structured data dates back to January 1, 2005?

Class Plaintiffs and Puerto Rico have worked with you in good faith and meaningfully narrowed the list of pork products for which Defendants otherwise would have been obligated to produce responsive structured data. As our deadline to reach agreement or seek relief from the Court is Monday, April 5, could you please get back to us today about the time period?

As it does not appear there are any remaining global issues relating to the definitions or lists of pork products with respect to Class Plaintiffs and Puerto Rico, we will be following up with the various Defendants individually today to confirm our understanding and position with respect to each Defendant's products or data.

Best,
Joe

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Subject: RE: Pork Products

Brian and all,

I'm writing to follow up on our correspondence and your question of whether all plaintiffs were in agreement with my email below. All the class plaintiffs, plus Puerto Rico, can agree to exclude the product types listed in my March 26 email, except pig feet and pig hearts:

- Renderings/Byproducts – products not used for human consumption (except lard), which are cooked for industrial/feed use, like blood meal, bone meal, and grease
- Offal/Variety Products – products removed from the carcass during the harvest and fabrication process, such as bones, fat, headmeat, and other organs (with the exceptions of feet and hearts)

- Franks – hot dogs and various types of franks that include non-pork meat
- Multi-ingredient products – such as breakfast sandwiches, burritos, and sausage tots

The Winn-Dixie plaintiffs have a different position on certain products and can't agree to exclude all those products described above, and they ask that you contact Patrick Ahern to discuss Winn-Dixie's position regarding pork products.

The class plaintiffs and Puerto Rico are happy to discuss further with all defendants regarding those products generally, or with individual defendants if there are more defendant-specific issues.

We also have the outstanding time period issue. Will defendants agree the time period for structured data production dates back to January 1, 2005?

Also, given the progress we've made and the amount of time spent on these discussions, we don't intend to seek another extension from the Court and thus need to have this resolved by Monday.

Best,
Joe

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Subject: RE: Pork Products

Joe – Yes, we are. Sorry for my delay. I am still waiting to get final confirmation from a couple of defendants, but I think we will get their approval soon. If you could circulate drafts, that would be great. Thanks.

Brian

Brian E. Robison

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Subject: RE: Pork Products

[External Email]

Brian – following up about this – are the defendants agreeable to a one-week extension of the deadline? If so I can circulate a draft stipulation and proposed order shortly.

Please confirm, thanks.

Joe

Joseph C. Bourne | he/him/his | Senior Counsel
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Subject: RE: Pork Products

Brian,

Class plaintiffs are conferring with the direct action plaintiffs. We can get back to you by tomorrow. Would the defendants be willing to stipulate to a one-week extension of the deadline to try to reach a global resolution?

Best,
Joe

Joseph C. Bourne | he/him/his | Senior Counsel
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Subject: RE: Pork Products

Joe:

The defense group is trying to reach a consensus on a response to your email, and we will email you with a response on the substance as soon as possible.

However, speaking now on behalf of Smithfield and most other defendants (and maybe all, I am still waiting to hear from two on this next point), I have a preliminary concern, which is that your email on Friday afternoon seems to say you are speaking only on behalf of the Class Plaintiffs. As you know, Smithfield wants to do one data pull in all cases for all plaintiffs. When we sent you our information about the pork products that Smithfield sells, we sent it to all plaintiff groups, including the DAPs, because we want a global resolution on this issue. Please confirm that the DAPs also agree to the proposal in your email Friday afternoon. If not, then please let us know when or if you will have a proposal on behalf of all plaintiff groups. Thanks.

Brian

Brian E. Robison

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Subject: RE: Pork Products

[External Email]

Counsel – given the deadlines in place, could you please respond as early as possible today so we can see where we stand on the list of pork products and the time period for the structured data productions?

Thanks,

Joe

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Subject: Pork Products

Counsel,

Thank you for your correspondence regarding the scope of pork products at issue in this case. In furtherance of our discussions, and in an effort to reach agreement regarding the structured data to be produced, Class Plaintiffs would be willing to agree to exclude the following product types that are made or sold by Defendants:

- Renderings/Byproducts – products not used for human consumption (except lard), which are cooked for industrial/feed use, like blood meal, bone meal, and grease
- Offal/Variety Products – products removed from the carcass during the harvest and fabrication process, such as bones, fat, feet, headmeat, hearts, and other organs
- Franks – hot dogs and various types of franks that include non-pork meat
- Multi-ingredient products – such as breakfast sandwiches, burritos, and sausage tots

These categorizations are based on the information provided by Defendants about the high level types of products they produce or sell. We are, of course, happy to discuss.

Best,
Joe

Joseph C. Bourne | he/him/his | Senior Counsel
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